

REMARKS

This Application has been carefully reviewed in light of the Final Action mailed September 7, 2005. In order to advance prosecution of this Application, Claims 58, 72, 73, 89, 100, and 111 have been amended. Applicant respectfully requests reconsideration and favorable action for this Application.

Claims 58, 72, 89, 100, and 111 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046. Applicant respectfully defers filing a Terminal Disclaimer pending an allowance of any of these claims.

Claims 58-65, 67, 72-79, 81, 89-95, and 99-106 under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. Independent Claims 58, 72, 89, and 100 recite in general a data communication protocol being selected from any of a plurality of various protocol types and telecommunication information being received in any of a plurality of various formats. By contrast, the Examiner readily admits that the Focsaneanu, et al. patent fails to disclose the ability to interface with data communication protocols selected from any of various protocol types and telecommunication information being received in any of a plurality of various formats. The Examiner cites a portion of the Focsaneanu, et al. patent that briefly mentions different protocols for connection requests and grants. However, the Focsaneanu, et al. patent fails to disclose an ability to provide telecommunication information having any of various format types in various data communication protocol types as provided in the claimed invention. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.

The Examiner combines the Chao, et al. patent with the Focsaneanu, et al. patent to support the ability to interface with various data communication protocols. However, the Chao, et al. patent is merely directed to an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling multiple priorities, which is not remotely related to interfacing with various data communication protocol types or receiving telecommunication information in various formats. The unique protocol discussed in the Chao, et al. patent is a contention protocol to provide fair access to the upstream bus for all units. Thus, the contention protocol for providing fair access to the upstream bus mentioned by the Chao, et al. patent is totally unrelated to interfacing with various data communication protocol types and receiving telecommunication information in any of various formats as required by the claimed invention. The Examiner has yet to show how the unique protocol described in the Chao, et al. patent relates to the various data communication protocol types and the various formats for telecommunication information as provided in the claimed invention.

Based on the above discussion, the structure that would result from placing the unique protocol for contention determination of the Chao, et al. patent into the network of the Focsaneanu, et al. patent would still lack an ability to receive information from a subscriber in one of various telecommunication interface formats and provide the telecommunication information using one of various data communication protocol types as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 58-65, 67, 72-79, 81, 89-95, and 99-106 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. combination.

Claims 66, 69-70, 80, 83-84, 96-97, and 107-110 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Pounds, et al. Independent Claims 58, 72, 89, and 100 have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. combination. Moreover, the Pounds, et al. patent does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 66, 69-70, 80, 83-84, 96-97, and 107-110 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Pounds, et al. combination.

Claims 68, 82, 86, 111, and 112 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Lor. Independent Claims 58 and 72 have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. combination. In addition, Independent Claim 111 includes similar limitations shown above to be distinguishable from the proposed Focsaneanu, et al. - Chao, et al. combination. Moreover, the Lor patent does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 66, 69-70, 80, 83-84, 96-97, and 107-110 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Lor combination.

Claims 71, 85, 98, and 109 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Lyles, et al. Independent Claims 58, 72, 89, and 100 have been shown above to be patentably distinct from the proposed Focsaneanu, et al.

- Chao, et al. combination. Moreover, the Lyles, et al. patent does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 71, 85, 98, and 109 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Lyles, et al. combination.

Claims 87, 88, 113, and 114 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Lor and further in view of Health, Jr., et al. Independent Claims 72 and 111 have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Lor combination. Moreover, the Health, Jr., et al. patent does not include any additional disclosure combinable with the Focsaneanu, et al., Chao, et al., or Lor patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 87, 88, 113, and 114 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Lor - Health, Jr., et al. combination.

This Response to Examiner's Final Action is necessary to address the Examiner's characterization of the cited art in support of the rejections to the claims. This Response to Examiner's Final Action could not have been presented earlier as the Examiner has only now provided the current characterization of the cited art to support the claim rejections.

CONCLUSION

Applicants have made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,  
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